

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

RONNIE ROWE, :
Plaintiff, : NO. 1:08-CV-00145
v. :
: OPINION AND ORDER
LAWRENCE COUNTY SHERIFF'S :
DEPARTMENT, et al., :
: Defendants.

This matter is before the Court on the Magistrate Judge's Report and Recommendation (doc. 26), to which no objections were filed. For the reasons indicated herein, the Court finds the Magistrate Judge's Report and Recommendation well-taken, and ADOPTS such Report and Recommendation in all respects.

The Magistrate Judge recommended that Plaintiff's Motion for a Voluntary Dismissal (doc. 11) be granted, that Defendants' Motion to Dismiss (doc. 5) be denied as moot, and this case be closed (doc. 26). The Magistrate Judge noted that although Defendants filed a motion to dismiss, such motion does not constitute an answer or summary judgment motion under Fed. R. Civ. P. 41(a)(1), so that Plaintiff is within his rights to dismiss the case without leave of Court (*Id. citing Aamot v.*

Kassel, 1 F.3d 441, 444-45 (6th Cir. 1993)).

Having reviewed this matter, the Court finds the Magistrate Judge's Report and Recommendation well-taken. Plaintiff's dismissal of the action without prejudice is appropriate under Fed. R. Civ. P. 41(a)(1). Accordingly, the Court ADOPTS and AFFIRMS the Magistrate Judge's Report and Recommendation (doc. 26), GRANTS Plaintiff's Motion to Dismiss (doc. 11) without prejudice, DENIES Defendants' Motion to Dismiss (doc. 5) as moot, and directs the clerk to close this case on the Court's docket.

SO ORDERED.

Dated: January 13, 2009 /s/ S. Arthur Spiegel
S. Arthur Spiegel
United States Senior District Judge